

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
NOEL TENGDIN, ) CASE NO. 10-22694 JPK  
 ) Chapter 13  
Debtor. )

ORDER DENYING REQUEST FOR WAIVER

This Chapter 13 case was initiated by a petition filed by the debtor Noel Tengdin, *pro se*, on June 8, 2010. Included in the documentation filed by Mr. Tengdin was Official Form 1, Exhibit D. In paragraph 3 of that form, Mr. Tengdin certified that he had requested credit counseling from an approved agency but was unable to obtain the services during the five days from the time he made his request, and that exigent circumstances existed which justify a temporary waiver of the credit counseling requirement required by 11 U.S.C. § 109(h)(1). The provisions for waiver of the credit counseling requirement are provided by 11 U.S.C. § 109(h)(3)(A). The court first notes that the foregoing statute, effective with respect to the debtor's case, requires that "the debtor requested credit counseling services from an approved non-profit budget and credit counseling agency, but was unable to obtain the services . . . during the 7-day period beginning on the date on which the debtor made that request". There is nothing in this record that demonstrates that Mr. Tengdin made any request of any credit counseling agency for credit counseling services, much less an indication that those services were not provided within 7 days of the date of the request. The "exigent circumstances" as required by 11 U.S.C. § 109(h)(3)(A)(i) are stated by the debtor to be "The sheriff's sale is scheduled for June 9, 2010 at 10:00 a.m., therefore I am unable to complete the credit counseling requirement pre-petition". This statement is not a statement of an exigent circumstance: sheriff's sales in Indiana are noticed well in advance of the sale itself, and one who ignores the date of the sale and seeks to file bankruptcy upon the eve of the sale will

sometimes be met with consequences, which is the case here. Finally, 11 U.S.C. § 109(h)(3)(A)(iii) requires that the request for waiver be “satisfactory to the court”. The debtors’ request is not satisfactory to the court.

IT IS ORDERED that the foregoing request for waiver of the credit counseling requirement of 11 U.S.C. § 109(h)(1) is denied.<sup>1</sup>

Dated at Hammond, Indiana on June 23, 2010.

/s/ J. Philip Klingeberger  
J. Philip Klingeberger, Judge  
United States Bankruptcy Court

Distribution:  
Debtor  
Trustee, US Trustee

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<sup>1</sup> The denial of the request for waiver will result in dismissal of this case if any party-in-interest files a motion to dismiss the case due to the debtor’s non-entitlement to seeking the relief which the petition requests.